



Department for Levelling Up,
Housing & Communities

Mr Scott Hudson
Savills UK Ltd
Finsbury Circus House
15 Finsbury Circus
London
EC2M 7EB

Our ref: APP/L5240/W/22/3296317

Your ref: 20/03841/FUL

6 April 2023

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY LEOS NORTH LONDON LTD
103-111a HIGH STREET, CROYDON, CR0 1QG
APPLICATION REF: 20/03841/FUL**

This decision was made by the Minister for Housing and Planning, Rachel Maclean MP on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of G Rollings BA (Hons) MAUD MRTPI, who held a public local inquiry that opened on 20 September 2022 and sat for six days closing on 28 September 2022 into your client's appeal against the decision of the Council of the London Borough of Croydon to refuse your client's application for planning permission for the demolition of existing buildings and erection of a 29-storey building to provide 121 residential units and flexible commercial floorspace at ground, mezzanine, first and second floors (comprising flexible A1/A2/D1/D2 at ground/mezzanine floors; flexible A1/A2/B1/D1/D2 at ground floor, flexible B1/D1/D2 at first and second floors) together with associated wheelchair accessible vehicle parking, cycle parking, landscaping, play areas and associated works, in accordance with application Ref. 20/03841/FUL, dated 21 August 2020.
2. On 10 August 2022, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Levelling Up, Housing & Communities
Phil Barber, Decision Officer
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Matters arising since the close of the inquiry

5. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the London Plan (2021) and the Croydon Local Plan (2018). The Secretary of State considers that relevant development plan policies include those set out at IR17-24.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the documents listed at IR25-26.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

10. The emerging plan comprises the Croydon Local Plan Review. The proposed submission draft of the Croydon Local Plan Review was subject to Regulation 19 consultation in early 2022.
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The emerging plan has not yet been submitted for independent examination. Given its early stage, the Secretary of State attaches minimal weight to the emerging plan (IR27 and IR169).

Main issues

The effect of the proposal on the living condition of occupiers of Impact House, with particular regard to daylight and outlook

Daylight effects

12. For the reasons given at IR104-105, the Secretary of State agrees with the two-stage approach which has been agreed as appropriate by the appellant, the Council and the Inspector. He has taken into account that it has been agreed that 50 windows would have a VSC less than 15% and that affected flats would therefore suffer significant light loss

(IR106). For the reasons given at IR107-111, he agrees that the use of the 27% ideal is inappropriate in this instance.

13. For the reasons given at IR112-122 and IR165, the Secretary of State agrees that there would be a substantial loss of daylight to windows in two of the three groups considered in these paragraphs, and that although this is only a small number of windows in relation to the total number in Impact House, the effects would be severe (IR121). Like the Inspector, the Secretary of State affords the resultant high level of harm to living conditions very significant weight (IR121 and IR165). He further agrees that there would be conflict with Croydon Local Plan Policies DM10.6 and DM38.4, and London Plan Policies D6 and D9 in this respect, as well as the Croydon Opportunity Area Planning Framework (OAPF) (IR122).

Outlook effects

14. For the reasons given at IR123-124, the Secretary of State agrees with the Inspector that although residents' views would be obstructed, this is a reasonable separation which would be appropriate in this town centre context (IR123) and that, whilst the nine windows closest to the boundary would have their outlook completely obstructed, the residents in the affected flats would maintain outlook from the main LKD rooms in their properties (IR123). He agrees with the Inspector that there would be no loss of outlook resulting in harm to the living conditions of occupiers of Impact House, and no conflict with the development plan in this respect (IR124).

The effect of the proposal on the character and appearance of the area

15. For the reasons given at IR125-129 and IR166, the Secretary of State agrees with the Inspector that, in townscape terms, the principle of a tall building on this site is acceptable (IR126). The Secretary of State agrees that the building's plinth would address the street frontages by establishing an appropriate scale for pedestrians and other users, and notes that the tower above has been designed in accordance with the 3:1 slenderness ratio encouraged by the OAPF. He agrees with the Inspector that, although this would appear broad in some views, this would be in accordance with other similarly proportioned buildings in close proximity (IR127). He further agrees with the Inspector that the building would be appropriate at street level, and in the wider view would appear in its place as part of the dynamic Croydon skyline (IR128). Like the Inspector, the Secretary of State agrees that the proposed development would be appropriate in townscape terms, would not harm the character and appearance of the area, and would not conflict with development plan policies or the OAPF in this respect (IR129).

The effect of the proposal on the historic environment

16. For the reasons given in IR130 and IR147, the Secretary of State agrees that no other assets outside of the five identified below, designated or otherwise, or their significance, would be harmed by the proposal. He agrees with the approach set out in IR131-132 and IR148, but notes, as per IR10, that the site is not in a conservation area. Section 72(1) of the LCBA Act therefore does not apply.

Wrencote House

17. For the reasons given at IR133-135, the Secretary of State agrees with the Inspector that the proposed building would be clearly visible in approach views along High Street from the south, in the background views of Wrencote House (Grade II* listed), and that the

proposed building would appear taller than Impact House and would have the potential to draw the eye in the approach to Wrencote House (IR134). He agrees that this would result in some harm to the setting of the heritage asset, and that the proposed development would fail to preserve this setting (IR134), and also agrees there would be no harm to the significance of Wrencote House (IR135). He further agrees that the harm is minor within the less than substantial categorisation (IR134).

Croydon Minster and Croydon Minster Conservation Area (CMCA)

18. For the reasons given at IR136-138, the Secretary of State agrees with the Inspector that the proposed tower would be seen amongst the existing cluster in the background of views of the Minster (Grade I) and that it would be a further element of the existing background cluster, rather than a new element that would draw the eye from the Minster view in the foreground (IR138). For the reasons given, he further agrees that there would be no harm to the significance of this asset and that the setting of the listed building would be preserved, together with the significance of the designated heritage asset (IR138).
19. For the reasons given at IR139-140, the Secretary of State agrees with the Inspector that no harm would result to the CMCA, the character and appearance of which would be preserved (IR140).

Croydon Town Hall

20. For the reasons given at IR141-143, the Secretary of State agrees with the Inspector that although the new building would add to the disturbance of the roofline in views from the proposed civic square, this would not have a harmful impact on the architectural or historic significance of the buildings (IR143). He further agrees that there would be no harm to the significance of this asset and that the setting of the listed building would be preserved, together with the significance of the designated heritage asset (IR143).

Central Croydon Conservation Area (CCCA)

21. For the reasons given at IR144-146, the Secretary of State agrees with the Inspector that the appeal building would appear directly in the centre of the view along Surrey Street, and due to its proximity and height, would appear as the tallest of these terminating buildings (IR145). He further agrees that although other modern buildings along Surrey Street are similarly appreciable at various points along the market, the proposed building would be a particularly noticeable addition, which would further detract from the street's historic character (IR145). For the reasons given, the Secretary of State agrees that the proposed development would fail to preserve or enhance the character and appearance of the CCCA (IR146) and that the harm to the significance of the area would be at the lower end of the scale within the less than substantial category (IR146).

Historic Environment Conclusion

22. For the reasons given at IR147-150 and IR167, the Secretary of State agrees with the Inspector that in considering the cumulative impacts resulting on harm of more than one asset that the harm remains less than substantial (IR147) and that in both cases the harm would be minor within the less than substantial categorisation. The Secretary of State agrees with the Inspector at IR148 and IR167 that applying the statutory duty as set out in section 66(1) of the LCBA, this matter carries considerable importance and weight.

23. The Secretary of State has carried out the test at paragraph 202 of the Framework. He agrees with the Inspector, for the reasons given at IR149-150, that the harm would be outweighed by the public benefits of the scheme, as summarised at paragraph 32 below. The paragraph 202 test is therefore favourable to the proposal.

Other considerations

Housing supply

24. For the reasons given at IR151-152 and IR168, the Secretary of State agrees with the Inspector that the Council is not underdelivering against its housing requirement, but it is significant that the delivery would occur in an important development and regeneration area (IR151). He has taken into account that the appeal scheme would provide 121 new homes, equating to around one-third of a year's expected housing delivery within the Croydon Opportunity Area, which is a major housing delivery zone for the borough (IR152), and agrees that Opportunity Areas are of considerable strategic value in delivering housing within London. Overall the Secretary of State considers that the delivery of new homes carries significant beneficial weight.

Affordable housing

25. For the reasons given at IR153 and IR168, the Secretary of State agrees with the Inspector that affordable housing delivery is a priority, and like the Inspector, he affords the provision of affordable dwellings significant beneficial weight (IR153).

Other effects on living conditions

26. For the reasons given at IR154-155, the Secretary of State agrees with the Inspector that although there would be some loss of sunlight, it would not be to a level so great as to fall below the recommended BRE levels (IR154). He further agrees that the separation distance would be sufficient to avoid a harmful impact on privacy (IR155).

Fire safety

27. For the reasons given at IR156, the Secretary of State agrees with the Inspector that a planning condition would require the development to be carried out in accordance with the approved fire strategy.

Employment and design provisions

28. For the reasons given at IR163, the Secretary of State agrees that the provisions relating to the employment in the planning obligation should carry moderate weight.

Planning conditions

29. The Secretary of State has given consideration to the Inspector's analysis at IR98-100, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

30. Having had regard to the Inspector's analysis at IR101 and IR162, the planning obligation dated 6 October 2022, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR162 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

31. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with CLP Policies DM10.6 and DM38.4 and London Plan Policies D6 and D9 of the development plan with respect to the harm to the living conditions of occupiers of Impact House, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

32. Weighing in favour of the proposal is the delivery of new homes and affordable units which are each afforded significant weight; and employment provisions which are afforded moderate weight.

33. Weighing against the proposal is the harm to residents of Impact House through loss of daylight which is afforded very significant weight; and the 'less than substantial' harm to Wrencote House (Grade II* listed) and Central Croydon Conservation Area which carries considerable importance and weight. The Secretary of State has concluded that the heritage test at paragraph 202 of the Framework is favourable to the proposal.

34. Overall, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.

35. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

36. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the demolition of existing buildings and erection of a 29-storey building to provide 121 residential units and flexible commercial floorspace at ground, mezzanine, first and second floors (comprising flexible A1/A2/D1/D2 at ground/mezzanine floors; flexible A1/A2/B1/D1/D2 at ground floor, flexible B1/D1/D2 at first and second floors) together with associated wheelchair accessible vehicle parking, cycle parking, landscaping, play areas and associated works, in accordance with application Ref. 20/03841/FUL, dated 21 August 2020.

Right to challenge the decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for

leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

38. A copy of this letter has been sent to the Council of the London Borough of Croydon, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Phil Barber

Decision officer

This decision was made by the Minister for Housing and Planning, Rachel Maclean MP, on behalf of the Secretary of State, and signed on her behalf

Annex A Schedule of representations

General representations

Party	Date
Chris Pittock on behalf of LEOS North London Ltd	7 December 2022